

### **REMARKS/ARGUMENTS**

This Amendment is submitted with a Request for Continued Examination and in response to the Office Action mailed May 7, 2009. As will be explained in further detail below, independent Claims 33 and 57 have been amended for clarification and to further distinguish the cited references. Claims 88-96 have been added. In light of the amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the claims.

In the Office Action, the Examiner rejects Claims 33, 34, 43, 46, 48-50, and 54-57 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,137,993 to Acosta et al. in view of U.S. Patent No. 4,795,434 to Kujawski. The Examiner rejects the remaining dependent claims over Acosta and Kujawski in view of various secondary references.

In Applicants' previous response, independent Claims 33 and 57 were amended to recite that the tracks include a plurality of tabs spaced axially between the proximal and distal ends thereof and that each tab is configured to engage at least one therapeutic medical appliance. In rejecting Claims 33 and 57, the Examiner interprets Acosta to find that the sheath (184) having diametrically opposed tabs (376, 378) is equivalent to a plurality of tracks with tabs spaced apart from one another along a transverse axis.

Although Applicants do not agree with the rejection, Claims 33 and 57 have been clarified to recite that each of the tracks includes a plurality of tabs spaced axially from one another along a longitudinal axis between the proximal and distal ends thereof and that each tab is configured to engage at least one therapeutic medical appliance. For example, FIGS. 2 and 3 of the present application disclose a track (300) having a plurality of tabs (340) spaced apart from one another. In contrast, Acosta discloses that a pair of tabs (376, 378) are diametrically opposed from one another at a distal end of the sheath (184) (see FIG. 43A). Thus, Acosta does not disclose that the sheath includes a plurality of tabs spaced axially apart from one another along a longitudinal axis that are each configured to engage at least one therapeutic medical appliance.

Although FIGS. 45A-E of Acosta disclose a plurality of engagement structures 402, 408, only the semi-tube 406 is axially displaceable with respect to the sheath, while the engagement

elements 402 are fixed. In particular, Acosta discloses: "As semitube 406 is retracted, fixed engagement elements 402 prevent prostheses 182 from being pulled proximally through sheath 184. Semitube 406 is then pushed distally, wherein engagement structures 408 advance prostheses 182 distally through sheath 184." Col. 28, lines 17-21. As such, Acosta does not teach or suggest that the engagement elements 402 are associated with a semi-tube or other member that is slidably coupled with the outer sheath 184. Thus, Acosta does not teach or suggest a plurality of tracks complementary and slidably coupled with the grooves such that the tracks and the grooves are linearly displaceable with respect to the other, as recited by Claims 33 and 57. Therefore, neither Acosta nor any of the remaining cited references taken alone or in combination teaches or suggests independent Claims 33 and 57.

Furthermore, Applicants have added independent Claims 94 and 95. Claim 94 includes similar recitations as that of Claims 33 and 57 but alternatively recites that the tracks are independent of one another and the outer tubular member and that the tracks are slidably coupled with the grooves such that each of the tracks is independently and axially displaceable within a respective groove. Conversely, Acosta discloses that tabs are formed from the same sheath (184) or that only one of the semi-tubes are axially displaceable with respect to the sheath. Moreover, Claim 95 recites that each therapeutic medical appliance is configured to be engaged by at least one tab at both a proximal end and a distal end thereof. In contrast, Acosta discloses that a pair of opposing tabs engage the distal end of the prosthesis or that only one of the semi-tubes is axially displaceable with respect to the outer sheath. Therefore, none of the cited references teaches or suggests new Claims 94 and 95.

In view of the remarks and amendments presented above, it is respectfully submitted that all of the pending claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is requested to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

The patentability of the independent claims has been argued as set forth above and thus Applicants will not take this opportunity to argue the merits of the rejection with regard to the dependent claims. However, Applicants do not concede that the dependent claims are not

Appl. No.: 10/567,508  
Amdt. dated July 20, 2009  
Reply to Office Action of May 7, 2009

independently patentable and reserve the right to argue the patentability of the dependent claims at a later date if necessary. For example, none of the cited references teaches or suggests new Claims 88 and 91, which recite that each of the tracks is independent of one another and the outer tubular member.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 50-2764.

Respectfully submitted,



Trent A. Kirk  
Registration No. 54,223

**Customer No. 000037305**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON July 20, 2009.**